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Arizona Supreme Court
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**IN THE SUPREME COURT
STATE OF ARIZONA**

In the matter of:)	
)	
PETITION TO AMEND)	Supreme Court No. R-14-
RULE 38)	
Rules of the Supreme Court)	
_____)	

Pursuant to Rule 28, Rules of the Supreme Court, David Byers, Director of the Administrative Office of Courts, respectfully petitions this Court to adopt amendments to Rule 38, Rules of the Supreme Court, governing the special exceptions to standard examination and admission to the practice of law. The proposed rule is attached in Appendix A, showing changes in legislative format.

I. Background and Purpose of Proposed Amendments

Rule 38, Special Exceptions to Standard Examination and Admission Process, was created in 1985 from Rule 28(e) and amended multiple times beginning in 1989. Most exceptions contained in Rule 38 were created when there was only one path for admission requiring every applicant to test successfully in Arizona. Since that time, the Court has created licensure programs for in-house counsel, admission on motion and military spouses.

When admission on motion (AOM) was being studied, the Court created a Task Force to study distinctions in Arizona law, of which attorneys moving to Arizona should be aware. The Task Force studied many topics and created materials highlighting nuances in Arizona law which are important for all new Arizona attorneys, along with practical information regarding court structure and resources. The course was delivered to all AOM applicants in person for two years with success and praise. Since late 2011, the Course on Arizona Law has been available at no cost in online format, for viewing on demand. While the rule as presently drafted requires AOM and military spouse applicants to take the Course on Arizona Law, the requirement has not been extended to all Rule 38 exceptions.

II. Contents of the Proposed Rule Amendments

The proposed amendments modify the special exceptions to examination and admission by requiring that all newly admitted attorneys who potentially represent clients on a range of issues or in multiple matters be required to complete the Course on Arizona Law.

Exceptions to standard licensure contained in Rule 38, with brief description, include:

- (a) Pro hac vice – associated with local counsel on one case;
- (b) Foreign legal consultant – educated in another country and providing legal advice only related to the laws of that country;
- (c) Full time law professor – may represent clients while also employed at one of the state's three law schools;
- (d) Clinical law professors and law students – representing multiple clients associated with law school instructional program/course;
- (e) Volunteers with approved legal services organizations – representing multiple clients in state courts without compensation;

- (f) Practice with an approved legal services organization – representing multiple clients in state courts with compensation;
- (g) Employed with indigent defense services – representing multiple clients in state courts with compensation;
- (h) In-house counsel – representing one client on a broad range of issues;
- (i) Military spouse – representing multiple clients in state courts with some restrictions.

The proposed amendments include the following:

Rule 38. Special Exceptions to Standard Examinations and Admission Process Procedure

Rule 38(a) Pro Hac Vice – No change

Rule 38(b) Foreign Legal Consultant – No change

Rule 38(c) Full Time Law Professor

The proposal creates a subsection A under “Requirements” to add:

“Submit evidence that the Applicant has successfully completed the course on Arizona law described in Rule 34(j).”

Rule 38(d) Clinical Law Professor and Law Students

The proposal creates a subsection v. under B *Requirements and Limitations for Clinical Law*

School Professors to add:

“Submit evidence that the Applicant has successfully completed the course on Arizona law described in Rule 34(j).”

Rule 38(e) Authorization to Practice Law for Attorneys Volunteering with

Approved Legal Services Organizations

The proposal creates a subsection C(iv) Certification to add:

“Submit evidence that the Applicant has successfully completed the course on Arizona law described in Rule 34(j).”

Rule 38(f) Authorization to Practice Law for Attorneys Working for Approved Legal

Services Organization

The proposal creates a subsection C(iv) under Application and Authorization to add:

“Submit evidence that the Applicant has successfully completed the course on Arizona law described in Rule 34(j).”

Rule 38(g) Authorization to Practice Law for Attorneys Employed by Indigent Defense

Offices.

The proposal creates a subsection C(iv) under Application and Authorization to add:

“Submit evidence that the Applicant has successfully completed the course on Arizona law described in Rule 34(j).”

Rule 38(h) In-house Counsel

The proposal creates a subsection 3(E) to add:

“Submit evidence that the Applicant has successfully completed the course on Arizona law described in Rule 34(j).”

III. Conclusion

The proposed amendments to the special exception rule will expose attorneys who have not tested or been fully admitted in Arizona to course content created and vetted by stakeholders including law schools, attorneys and the judiciary. Completing the Course on Arizona law will benefit attorneys who potentially represent clients in state courts yet can be completed on demand at no cost. David Byers requests that the Court adopt the rule amendments as set forth in Appendix A.

RESPECTFULLY SUBMITTED this _____ day of _____, 2014.

DAVID BYERS